

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

THE SCOTT FETZER COMPANY,)	CASE NO.: 1:16 CV 1570
)	
Plaintiff,)	JUDGE DONALD C. NUGENT
)	
v.)	
)	
ZURICH AMERICAN INSURANCE)	
COMPANY,)	
)	
Defendant.)	

MOTION TO VACATE STAY

Plaintiff The Scott Fetzer Company (“Scott Fetzer”) moves the Court to vacate its Order of August 12, 2016 staying Scott Fetzer’s bad faith claim against Defendant Zurich American Insurance (“Zurich”). This Court entered the stay pursuant to Zurich’s motion to bifurcate and to stay Scott Fetzer’s Second Claim for bad faith pending resolution of Scott Fetzer’s First Claim seeking a declaratory judgment for insurance coverage. A three-judge panel of the United States Court of Appeals for the Sixth Circuit recently ruled unanimously in favor of Scott Fetzer, holding that Scott Fetzer is entitled to insurance coverage from Zurich, and mandated the entry of summary judgment for Scott Fetzer on the coverage claim. The case has now been remanded to this Court for further proceedings consistent with the Sixth Circuit’s decision. As a result, the original justification for staying the bad faith claim no longer exists, and Scott Fetzer’s bad faith claim is now ripe. Consequently, Scott Fetzer respectfully moves the Court to vacate the stay of the bad faith case and allow the bad faith claim to proceed to discovery and beyond, and ultimately to final judgment.

Respectfully submitted,

s/ David W. Mellott

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CERTIFICATE OF SERVICE

I hereby certify that on May 29, 2019, a copy of the foregoing *Motion to Vacate Stay* was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's system.

s/ David W. Mellott

David W. Mellott